



P.L.

The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Hirt Telecom Company

File: B-222746

Date: July 28, 1986

DIGEST

Bid was not ambiguous, and agency's rejection of it as nonresponsive was improper, where bidder inserted in its bid the name of the manufacturer of the item it proposed to furnish and a correct narrative description of the item conforming to specifications, but also referred to the item by the manufacturer's catalog number which by virtue of a discrepancy of 1 digit out of 5 referred to a wholly inappropriate item instead of that correctly described by narrative. The only reasonable interpretation of the bid as a whole is that the bidder intended to furnish the type of item specified in the solicitation.

DECISION

Hirt Telecom Company (Hirt) protests the rejection of its bid as nonresponsive to invitation for bids (IFB) No. RS-ADM-86-254 issued by the United States Nuclear Regulatory Commission (NRC).

We sustain the protest.

NRC solicited offers for the supply and installation of twin axial and coaxial signal cables which support the IBM 5520 Word Processing System. The required cables and connectors were identified by IBM part numbers, although bidders were permitted to offer other manufacturers' products as "equals." Blanks were provided in the solicitation for bidders to enter the manufacturer's name, brand and part number offered. At issue in this protest is item 4, an estimated quantity of 175 connectors, which is listed on the schedule as, "Connector, IBM, Part No. 7362229; or equal."

In response to the solicitation, Hirt--the apparent low bidder^{1/--} offered an alternative "equal," i.e.:

^{1/} We were notified during the pendency of this protest that award was made to the second low bidder on May 8, 1986, after a written finding by the head of the procuring activity that the services were urgently needed. The IFB provided for a single award for all the items listed in the bid schedule.

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"Bidding on:

Manufacturer's name: Winston
Brand: Twin Axial Male Connector
Number: 44273"

NKC rejected Hirt's bid as nonresponsive after determining that part No. 44273 is shown in Winston's catalog as a TNC crimp-type female connector and not a twin axial male connector, the type which was required by item 4 and which is Winston catalog No. 44243.

In its protest to our Office, Hirt states that its bid contained a clerical error. According to Hirt, it had incorrectly "transcribed" one digit of the part number from its original handwritten worksheet to its bid. Nonetheless, the protester contends that its bid contained sufficient information, as submitted, to establish that it intended to furnish a "Winston, Twin Axial Male Connector" and was, therefore, responsive to the requirements of the solicitation.

We find the agency's rejection of Hirt's bid as nonresponsive was improper.

In order to be responsive, a bid as submitted must represent an unequivocal offer to provide the product or service as specified, so that acceptance of it would bind the contractor to meet the government's needs in all significant respects. Power Test, Inc., B-218123, Apr. 29, 1985, 85-1 C.P.D. ¶ 484. If a bid contains a defect affecting price, quality, quantity or delivery, it is materially deficient and must be rejected. Ashland Chemical Co., B-216954, May 10, 1985, 85-1 C.P.D. ¶ 555.

Entries made on a bid or descriptive literature submitted with it may create an ambiguity as to the bidder's intent to meet the material requirements of the government, in which case the bid must be rejected. Not every discrepancy in a bid gives rise to an ambiguity, however; a bid is ambiguous only if it is susceptible to more than one reasonable interpretation. See Applied Electro Mechanics, Inc., B-214673, Sept. 10, 1984, 84-2 C.P.D. ¶ 271. If the only reasonable interpretation of a bid is consistent with the solicitation, the bid is responsive and should not be rejected. Applied Electro Mechanics, Inc., B-214673, supra, 84-2 C.P.D. ¶ 271 at 3. That is the situation here.

Hirt inserted on the face of its bid for item 4 that it proposed to supply a "winston Twin Axial Male Connector," to which the contracting agency has voiced no objection. Hirt also described this item by a Winston catalog number which, by virtue of a difference in 1 digit out of 5, is associated in the Winston catalog not with the twin axial male connector specified, but with a totally unrelated TNC crimp-type female connector, which is a chassis-mount receptacle for a male coaxial cable connector. This 1-digit discrepancy is the sole basis for the agency's rejection of Hirt's bid. In the context of a bid in which the bidder has

inserted a correct narrative description of the item offered and the catalog number provided by the bidder, when compared to the manufacturer's published catalog refers, solely by reason of a 1-digit discrepancy, to an item not suitable for use under this contract instead of the suitable item otherwise accurately described in the bid, we think it is unreasonable to conclude that the bidder intended to furnish an inappropriate type connector. The only reasonable interpretation of Hirt's bid is that it intended to furnish the type of connector specified. The bid is therefore not ambiguous and its rejection was in error.

Since the contract was only awarded, and performance initiated, approximately 2 months ago, by separate letter of today to the Chairman of the NRC, we are recommending that if Hirt is found to be a responsible prospective contractor, NRC terminate the contract awarded to another for the convenience of the government and award the remainder of the contract to Hirt at its bid price. If Hirt is unwilling to accept the award for that portion of the contract that is not completed, we recommend that Hirt be reimbursed for the cost of preparing its bid and for filing and pursuing this protest. If Hirt refuses the award, we further recommend that no options be exercised and that the then existing requirements be recompeted.

The protest is sustained.

Shilton J. Fowler
for Comptroller General
of the United States